

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

NEXTGEAR CAPITAL, INC.

Plaintiff

V.

**CNG AUTO GROUP, INC. d/b/a TOP
WHEELS; ELONTO R. HERNANDEZ
COLON; and JULISSA M. FUENTES
RIVERA**

Defendants

CIVIL. NO. 15-cv-01824 (JAG)(CVR)

**RE: BREACH OF CONTRACT,
COLLECTION OF MONIES,
REPOSSESSION OF PERSONAL
PROPERTY**

**MOTION FOR LEAVE TO APPEAR AS COUNSEL
AND REQUEST FOR BRIEF EXTENSION OF TIME TO ANSWER COMPLAINT**

TO THE HONORABLE COURT:

COMES NOW Manuel L. Morales-Schmidt, Esq., legal representative for **Defendants** **CHG Auto Group, Inc., Elonto R. Hernandez Colon and Julissa M. Fuentes Rivera**, and respectfully STATES and PRAYS as follows:

1. Defendants have recently contracted with the undersigned attorney to represent her in this matter.
2. We respectfully request to allow counsel to enter this action as counsel for Defendants.
3. Defendants were served by publication in accordance with Rule 4(e)(1) of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 4(e)(1), on October 21, 2016. Pursuant

to the summons, Defendants must have served an answer to the complaint within 30 days after being served, thus the responsive pleading was due on November 21, 2016.

4. The undersigned attorney was contracted last Friday April 1, 2017, to attend to this particular matter and upon verification of the summons served noticed that the term to answer the complaint had already expired. Furthermore, present attorney verified the docket entries on this case and learned that as part of Plaintiff's Motion for Leave to Serve Defendants by Publication, there is a statement from process server, Mr. Velazquez Ortiz, indicating that present attorney knew about the summons but did not have authorization from Defendants to receive the summons.

5. While the undersigning attorney did speak with Mr. Alvarez on August 14, I explained that I was Defendant's attorney for other matters related to the Department of Consumer Affairs and was not under contract to address this matter. Mr. Alvarez was instructed by me to serve the summons directly to Defendants and in order to assist him, Mr. Hernandez's phone number was provided to him. At no time did present attorney inform Mr. Alvarez that Defendants were to be served through me as their attorney or that I was Defendants' attorney in this matter.

6. Defendants became aware of the service by publication recently since they did not receive the certified letters sent by Plaintiff as required by Rule 4.6 of the Puerto Rico Rules of Civil Procedure, P.R. R. Civ. P. 4.6. After several attempts to secure the services of an attorney, Defendants entered into a services contract on April 1.

7. Upon verification of the complaint and the documents provided by the Defendant, it became clear that additional time is necessary to gather all necessary information to form

an answer to the complaint or present a motion under Rule 12(b)(6) since Defendant has a defense available based upon the fact that Plaintiff may lack standing to file instant case.

8. The undersigning attorney respectfully requests a twenty (20) day extension of time to investigate this matter and formulate an answer to the complaint or file a motion under Rule 12(b)(6) based on the available facts. The brief extension requested shall not prejudice the Plaintiff as a complete investigation of the facts and a well pleaded answer will serve to specify the controversies involved and address issues that may prevent this Honorable Court to accord complete relief among the parties.

9. Default against Defendants has not been entered as of this date and Plaintiff will not suffer prejudice since it has already executed the replevin for the vehicles that secured the loan upon which instant case is based.

WHEREFORE, the undersigning attorney respectfully prays and requests that this Honorable Court take notice of the aforementioned information and allows Manuel L. Morales-Schmidt to appear as counsel for CNG Auto Group, Inc., Elonto R. Hernandez Colon and Julissa Fuentes Rivera in instant case and grant a reasonable term of twenty (20) days to complete the investigation of the facts and answer the complaint in this case or present the motions allowed under Rule 12(b)(6).

I HEREBY CERTIFY that on this same date, a true and exact copy of this document has been filed using the CM/ECF system and that all counsel of record will be served a copy of this motion.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 4th day of April, 2016.

S/Manuel L. Morales Schmidt

Manuel L. Morales-Schmidt

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